REMARKS

Claims 2-13, 29-31, and 37 are pending in the application.

Claims 2-13, 29-31, and 37 stand rejected.

Claims 2, 5, 10, and 29, and 37 have been amended. Claims 2, 29, and 37 have been amended to correct typographical errors. Support for the amendments to claims 5 and 10 can be found in FIG. 3 and the accompanying description on pages 12-13 of the specification.

Rejection of Claims under 35 U.S.C. §112

Claims 2-13, 29-31, and 37 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which the Applicant regards as the invention. Claims 2, 5, 29, and 37 have been amended. Accordingly, Applicant asserts that these rejections have been overcome.

Rejection of Claims under 35 U.S.C. §103

Claims 2-13, 29-31, and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Akiyama et al., U.S. Patent No. 6,636,970 (hereinafter referred to as "Akiyama") in view of Ronning, U.S. Patent No. 5,883,954 (hereinafter referred to as "Ronning"). Applicants respectfully traverse this rejection.

With respect to claim 2, the cited art fails to teach or suggest configuring a dynamic computing environment for a first hardware, a first software environment, and a first network configuration; demonstrating the execution of the first software using the first hardware, the first software environment, and the first network configuration of the dynamic computing environment; configuring the dynamic computing environment for a second hardware, a second software environment, and a second network configuration; and demonstrating the execution of the first software using the second hardware the second software environment, and the second network configuration of the dynamic computing environment, as recited in amended claim 2.

Akiyama is recited as teaching "configuring a dynamic environment for a hardware, software environment, and a network configuration, and demonstrating the execution of a first software using the hardware, the software environment, and the network configuration of the dynamic computing environment." Office Action, p. 4. Akiyama is concerned with encoding and decoding techniques for use in software distribution systems (e.g., see col. 1 of Akiyama). The portions of Akiyama that are cited in the rejection of claim 2 recite:

> ICR is the card reader, and it is possible the system with a PCMCIA card that conforms to the JEIDA (Japan Electronic Industry Development Association) standard. In the present preferred embodiment, the algorithms A1, A2, A3... An to be discussed below are provided by being stored on the IC card. It is desirable to provide physical protection for this IC card; for example, the data thereon may be completely erased by a wrongful access of the card by a user, or card read-out may be prevented. Furthermore, the configuration of the multiple algorithms on this card may be changed following a prescribed fixed period. If the arrangement or contents of the algorithms stored in this card are renewed periodically, the decoding of the software may be limited to a certain period of time, enabling it to be used as demonstration software, or as specific-system software for limited uses. Akiyama, col. 3, line 62 - col. 4, line 10.

This portion of Akiyama clearly fails to teach or suggest configuring a first dynamic computing environment. In particular, the cited portion of Akiyama simply teaches storing algorithms on a PCMCIA card, and does not teach anything about configuring a dynamic environment for a software environment and a network configuration. Additionally, the cited portion of Akiyama fails to teach demonstrating the execution of first software using such a configured software environment and network configuration. Applicant failed to find such teaching or suggestions in any other portion of Akiyama.

Ronning is cited as teaching "configuring the dynamic computing environment for a second hardware, a second software environment, and a second network configuration, and demonstrating the execution of the software using the second hardware, the second software environment, and the second network configuration of the dynamic computing environment." Office Action, p. 4. Ronning, both alone and in combination with Akiyama, fails to teach or suggest these features of claim 2. The cited portions of Ronning recite:

FIG. 20 is a flow chart of a process for a self-launching and on-line self-launching software or digital information distribution system. A self-launching system has the advantage of not requiring a separate browser for distribution and/or sampling of applications or digital information. The operation of the system is thus essentially invisible to the user as an application or digital information and launches itself when a user selects the application or digital information.

Accordingly, a self-launching system for demonstrating applications typically includes the following features. The system is attached to a software program such as in one file as described above. The system maintains the software program in a locked state in order to prevent unauthorized duplication of the software program, such as with encryption and a package file system described above. When a user selects the software program, the system launches itself and can enable the software program for execution by the user and allow the user to subsequently sample the software program. The system maintains the software program in the locked state during the sampling of the software program in order to prevent unauthorized duplication of the software program, and selectively disables the sampling of the software program.

A self-launching system for distributing applications or digital information typically includes the following features. The system is attached to an application or digital information such as in one file as described above. The system maintains the application in a locked state in order to prevent unauthorized duplication, such as with encryption and a package file system described above. When a user selects the application or digital information, the system launches itself and can unlock the application or digital information in response to a purchase request. Ronning, col. 12, line 56 - col. 13, line 22.

"[A]ctivation means for causing the computer to launch the self-launching software demonstration system when a user selects the software program, the activation means comprising: sample means for causing the computer to enable the software program for execution upon selection by the user, for allowing the user to subsequently sample the software program, for maintaining the software program in the locked state during the sampling of the software program in order to prevent unauthorized duplication of the software program, and for selectively disabling the sampling of the software program." Ronning, col. 24, lines 30-40.

The cited portions of Ronning clearly fail to teach or suggest configuring a dynamic computing environment, as received in claim 2. Instead, the cited portions of Ronning teach a self-launching application that can enable a software program for execution and maintain the software program in a locked state, such that a user who obtains the software program will be unable to duplicate the software program without authorization. Applicant notes that "enabling the software program for execution" is not the same as

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configuring a dynamic computing environment, which involves configuring hardware, a software environment, and a network configuration (as recited in claim 2). In contrast, enabling the software program for execution appears to simply involve allowing a user to start the software program (e.g., see claim 17 of Ronning, which describes the enabling step as involving preventing the enabling of the software program when the predetermined trial usage period has expired, and claim 12 of Ronning, which describes the enabling step as involving limiting how many times the software program can be sampled). Thus, the cited portion of Ronning clearly does not teach or suggest configuring hardware, a software environment, and a network configuration in a dynamic computing environment and demonstrating the execution of software on the configured hardware, software environment, and network configuration, as recited in claim 2.

Further with respect to claim 2, Applicant notes that it is simply not the case that Ronning "implicitly teaches configuring the dynamic environment for a second hardware, a second software environment, and a second network configuration," as asserted on page 4 of the Office Action. The justification for this assertion is: "The user of the computer launching the demonstration software for possible sales or purchase may have a different platform or computing environment including a hardware, software environment, and network configuration than another user of another computing launching the demonstration software." Office Action, p. 4. Applicant notes that it is irrelevant whether different user's computers have different configurations; what is relevant is whether the cited art teaches or suggests the affirmative acts of configuring a dynamic computing environment for a first hardware, a first software environment, and a first network configuration and also configuring the dynamic computing environment for a second hardware, a second software environment, and a second network configuration, as recited in claim 2. The cited references, both alone and in combination, fail to teach or suggest performing such affirmative acts on a dynamic computing environment.

Furthermore, the combination of Ronning and Akiyama clearly fails to teach or suggest the claimed invention. As noted above, Akiyama teaches using a card that stores multiple decoding algorithms to decode software that has been encoded with corresponding encoding algorithms. Ronning teaches using a self-locking application to maintain another application in a locked state. Together, Akiyama and Ronning teach, at

best, using multiple decoding algorithms to decode an application and then using a self-launching application to enable the application for execution and to maintain that application in a locked state. The combination of the references clearly fails to teach or suggest configuring a dynamic computing environment and demonstrating execution of software on the configured hardware, software environment, and network configuration. Accordingly, for at least the foregoing reasons, the combination of references clearly fails to teach or suggest claim 2. Claims 3-13, 29-31, and 37 are patentable over the cited art for similar reasons.

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CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **October 29, 2004**.

_____   *10-29-2004*
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